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FISCAL IMPACT STATEMENT

LS 6304
BILL NUMBER: SB 145

NOTE PREPARED: Dec 18, 2011
BILL AMENDED:

SUBJECT: Inheritance Tax, Estate Tax, and GST Tax.

FIRST AUTHOR: Sen. Miller
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill phases out the Inheritance Tax beginning July 1, 2012, by giving an increasing credit against the Inheritance Tax due. It provides that the Inheritance Tax does not apply to the transfer of property interests by a decedent whose death occurs after June 30, 2017. It phases out payments of the Inheritance Tax replacement amount to counties over a period between 2012 and 2017. The bill also provides that the Estate Tax and Generation Skipping Transfer (GST) tax do not apply after June 30, 2017, and it makes technical corrections.

Effective Date: July 1, 2012.

Explanation of State Expenditures: *Department of State Revenue:* If the Inheritance Tax is repealed, there could be a savings to the state from a reduction in staff of the Inheritance Tax Section of the Department of State Revenue. The November 1, 2011, state staffing table indicates that the Inheritance Tax Division has 8 full-time employees with an annual salary of about $300,000. Since staff will be needed to process returns during the phaseout of the Inheritance Tax, a specific savings due to staff reductions could not be estimated.

Explanation of State Revenues: *Summary* - The bill would lead to progressively larger reductions in Inheritance Tax revenues from FY 2014 through FY 2019 when the tax would be eliminated and no longer generate revenue. The revenue loss from the phaseout is demonstrated in the table below.

Fiscal Year Impact	Inheritance Tax Revenue Loss
FY 2014	($33.0 M)
FY 2015	($66.0 M)
FY 2016	($82.5 M)
FY 2017	($99.0 M)
FY 2018	($132.0 M)
FY 2019 and after	($165.0 M)

The bill also provides that the Estate Tax and Generation Skipping Transfer Tax do not apply after June 30, 2017. The bill could potentially have the following impacts on state revenues:

(1) Elimination of potential future revenue from the Indiana Estate Tax: *The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010* (P. L. 111-312), signed into law on December 17, 2010, exempts the first $5 M ($10 M for married couples) of an estate from the Federal Estate Tax and applies a tax rate of 35% for 2011 and 2012. P. L. 111-312 also extended the state death tax deduction through 2012 (in lieu of the state death tax credit which was eliminated for the deduction in 2005). Under the state death tax deduction, Indiana does not collect Estate Tax because the tax is tied to the old state death tax credit instead. The extensions in P. L. 111-312 will sunset on December 31, 2012. It is unknown whether Congress will extend the current Federal Estate Tax after this date, create a new Estate Tax, or allow via inaction the Estate Tax as it existed in 2001 to return in 2013. It is also unknown what the applicable tax rate and exemption amounts will be in 2018 or whether a state death tax deduction or credit will be in place at that time. Annual Estate Tax collections totaled $20 M to $25 M immediately prior to the federal law changes in 2001.

(2) Elimination of potential future revenue from the Indiana Generation Skipping Transfer Tax: The revenue loss from elimination of the Generation Skipping Transfer Tax would be minimal. Since FY 1993, the tax reportedly generated no revenue except in FY 2004 ($31,254) and FY 2005 ($3,637).

Background Information - The bill phases out the Inheritance Tax by providing an increasing credit against a beneficiary's Inheritance Tax liability. The credit would apply to transfers made by persons who die within the dates specified in the following table. Since the Inheritance Tax must be paid within 12 months after the decedent's death (within 9 months to receive the 5% early payment discount), the bulk of the impact of the first year's credit (equal to 25%) would not be experienced until FY 2014.

Inheritance Tax Credit	Transfers made from persons dying . . .
20%	After June 30, 2012, and before July 1, 2013
40%	After June 30, 2013, and before July 1, 2014
50%	After June 30, 2014, and before July 1, 2015
60%	After June 30, 2015, and before July 1, 2016
80%	After June 30, 2016, and before July 1, 2017
100%	After June 30, 2017

The estimated impact of the phaseout of the Inheritance Tax is based on the Revenue Technical Committee's FY 2012 forecast (published December 14, 2011). This forecast estimates FY 2012 Inheritance Tax at $165 M. The estimated revenue loss from the exemption assumes that Inheritance Tax revenues would remain relatively constant in the future, absent the phaseout.

Under current Indiana statutes, Indiana Estate Tax is owed on the assets of an estate if: (1) Federal Estate Tax is owed on the estate; and (2) the Indiana portion of the state death tax credit applicable to the Federal Estate Tax exceeds the total Indiana Inheritance Tax paid by transferees of the estate. The Indiana Estate Tax is equal to the difference between the state death tax credit under the Federal Estate Tax and the Indiana Inheritance Tax. However, under the *Economic Growth and Tax Relief Reconciliation Act of 2001* (P. L. 107-16), the state death tax credit was eliminated for estates of decedents who died after December 31, 2004. This elimination was extended through 2012 under the *Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010* (P. L. 111-312).

Like the Indiana Estate Tax, the Indiana Generation Skipping Transfer Tax is also linked to the federal version of the tax via the federal Generation Skipping Transfer Tax credit. The federal Generation Skipping Transfer Tax was repealed under the *Economic Growth and Tax Relief Reconciliation Act of 2001* (P. L. 107-16), but the repeal sunsetted on December 31, 2010.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Summary* - The phaseout of the Inheritance Tax could result in an annual revenue loss to counties beginning in FY 2015.

Fiscal Year Impact	Local Share of Inheritance Tax Revenue Loss
2014	($2.8 M)
2015	($5.7 M)
2016	($7.1 M)
2017	($8.5 M)
2018	($11.4 M)
2019 and after	($14.2 M)

The bill also phases out replacement payments paid from the state General Fund to counties based upon replacement payments that they receive for any shortage of Inheritance Tax revenue in FY 2012 (the fiscal year before the Inheritance Tax begins to be phased out by this bill). Thirteen counties received less revenue than is guaranteed by statute for FY 2011, totaling about $108,000. Replacement payments have averaged about $113,000 since FY 2006. Because most counties retain more in Inheritance Tax revenues than is guaranteed in the replacement statute, most counties will not receive replacement payments. Using the average, the phaseout of replacement payments provided in this bill is shown in the table below. Replacement payments will end in FY 2018.

Fiscal Year Impact	**Phaseout Percentage**	**New Replacement Payments (Aggregate)**
2013	80%	$90,000
2014	60%	$68,000
2015	50%	$57,000
2016	40%	$45,000
2017	20%	$23,000

Background Information - Counties retain 8% of the Inheritance Tax collected on transfers made by Indiana residents and are guaranteed a statutorily determined amount from the Inheritance Tax under P.L.254-1997. This legislation increased the Class A exemption to $100,000, effective July 1, 1997, and required the state to annually transfer money from the state General Fund to counties to replace county Inheritance Tax revenue lost due to the exemption increase. The replacement provision guarantees that each county receive an amount of Inheritance Tax revenue equal to the five-year annual average amount of Inheritance Tax received by that county from FY 1991 to FY 1997, excluding the highest year and lowest year. The total annual guarantee to counties is approximately $7.4 M.

A copy of the spreadsheet showing the amount of Inheritance Tax replacement guaranteed to each county under P.L. 254-1997 is available from the Office of Fiscal and Management Analysis.

State Agencies Affected: Department of State Revenue.

Local Agencies Affected: Counties.

Information Sources: Revenue Technical Committee, *State Revenue Forecast, Fiscal Years 2012 and 2013,* December 14, 2011; Quarterly Inheritance Tax Reports, FY 1997- FY 2011.

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